

of a State or local government are prior to use by the State or local government resold under circumstances that do not amount to an exclusive use by the State or local government (such as tires that are resold by a volunteer fire department to volunteer firemen), the parties responsible in the State or local government are required to inform the manufacturer, producer, or importer from whom the articles were purchased that they were disposed of in a manner that did not amount to an exclusive use by the State or local government. A willful failure to supply the manufacturer, producer, or importer with the information required by this subparagraph will subject responsible parties to the penalties provided by section 7203.

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 8036, 50 FR 29963, July 23, 1985; T.D. 8659, 61 FR 10463, Mar. 14, 1996]

§ 48.4221-6 Tax-free sales of articles to nonprofit educational organizations.

(a) *In general.* An article (excluding an automobile subject to tax under section 4064) subject to tax under Chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(5) and this section, to a nonprofit educational organization for its exclusive use. See paragraph (b) of this section for the meaning of the term “nonprofit educational organization”. An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale of an article by the manufacturer is made directly to a nonprofit educational organization for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a nonprofit educational organization for its exclusive use even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(D), and paragraph (b)(4) of § 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a nonprofit educational organization.

(b) *Nonprofit educational organization.* The term “nonprofit educational organization” means an organization described in section 170(b)(1)(A)(ii) that is

exempt from income tax under section 501(a). Section 170(b)(1)(A)(ii) describes an “educational organization” as one that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), provided the primary function of such school is the presentation of formal instruction and provided such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(c) *Evidence required in support of tax-free sales to nonprofit educational organizations.* Every nonprofit educational organization purchasing tax free under section 4221(a)(5) must furnish the following information to the seller:

(1) The exempt purpose for which the article or articles are being purchased, and

(2) Its registration number, and the district director’s office that issued the registration number.

Such information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with each sale “except that a single notification containing the information described in this paragraph may cover all sales by the seller to the purchaser made during a designated period not to exceed 12 successive calendar quarters.”. See paragraph (c) of § 48.4221-1 for the evidence required to establish exemption.

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 7686, 45 FR 17574, Mar. 19, 1980; T.D. 8036, 50 FR 29963, July 23, 1985]

§ 48.4221-7 Tax-free sales of tires and tubes.

(a) *In general.* A manufacturer of tires or inner tubes that are taxable under section 4071 may sell such articles tax free if the sale meets the conditions prescribed in section 4221(e)(2) and paragraph (a) (1) and (2) of this section. The following are conditions

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under which articles taxable under section 4071 may be sold tax free:

(1) The tire or tube is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by the purchaser; and

(2) The other article is to be sold in a tax-free sale by the purchaser for export, for use as supplies for vessels or aircraft, to a State or local government for its exclusive use, or to a nonprofit educational organization for its exclusive use, or the other article is to be sold by the purchaser for any of such purposes in a sale which would be tax-free but for the fact that the other article is not subject to tax under Chapter 32 of the Code.

See section 6416(b)(2)(F) and paragraph (b)(6) of § 48.6416(b)-2 for the circumstances under which credit or refund of tax is available for tax-paid tires or tubes that are resold for the purposes described in this paragraph (a).

(b) *Registration requirements.* In order to effect a tax-free sale under section 4221(e)(2)(A), both the manufacturer and purchaser (except for purchasers who are exempt from the registration requirement under § 48.4222(b)-1) must be registered with the District Director of Internal Revenue as required in § 48.4222(a)-1. At the time of sale, the registration number assigned to the purchaser by the district director together with the purpose for which the article was purchased must be shown on (or attached to) the invoice, purchase order, or other document used for the sale.

(c) *Proof required in support of tax-free sales of tires and tubes—(1) Cessation of exemption.* The exemption allowed under section 4221(e)(2)(A) and this section on the sale of a tire or inner tube shall cease to apply unless, within the 6-month period which begins on the date of the tax-free sale by the manufacturer of such article (or, if earlier, on the date of shipment by such manufacturer), the manufacturer receives proof from the purchaser that such article has been used on or in connection with the sale of another article which has been sold for one of the tax-exempt purposes referred to in paragraph (a)(2) of this section. If the manufacturer has

not received the required information within such 6-month period, the temporary suspension of the liability for the payment of the tax ceases, and the manufacturer shall include the tax on the sale of the tire or inner tube in his return for the period in which the 6-month period expires. If the required information is received after the expiration of the 6-month period, the manufacturer may file a claim for credit or refund of tax so paid on his sale of the tire or inner tube.

(2) *Required information.* The information which the manufacturer must receive within the 6-month period, referred to in paragraph (c)(1) of this section, shall be in substantially the following form:

STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of tires or inner tubes by the manufacturer thereof for use on or in connection with the sale of another article (section 4221(e)(2) of the Internal Revenue Code))

(Date) _____, 19____.

I certify that I, or the _____, (Name of purchaser if other than undersigned) of which I am _____ (Title) am/is in the business of selling _____ (Products handled) and hold(s) certificate of registry No. _____ issued by the District Director of Internal Revenue at _____; and that the tires or inner tubes which were purchased or shipped on _____, 19____, as specified on the back hereof, have been used on or in connection with the sale of _____ (Products sold) by such undersigned.

Check one

_____ for export by _____ (Name of carrier) to _____ (Name of foreign country or U.S. possession) and was so exported on _____, 19____ (Date). (A copy of the bill of lading or other proof of exportation is attached.)

_____ for use as supplies on _____ (Name of vessel or aircraft) which is registered in _____ (Name of country in which vessel or aircraft is registered).

_____ to _____ (Name of State or local government).

_____ to _____ (Name and address of the nonprofit educational organization).

I understand that the fraudulent use of this certificate for the purpose of substantiating the tax-free sale will subject me and all parties making such fraudulent use of this certificate to revocation of the privilege

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of purchasing articles tax free and to a fine of not more than \$10,000 or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

(Signature)

(Address)

§ 48.4221-8 Tax-free sales of tires, tubes, and tread rubber used on intercity, local, and school buses.

(a) *In general.* Under section 4221(e)(5), the taxes imposed by section 4071(a)(1), (3) and (4) shall not apply to sales by a manufacturer, producer, or importer of tires of the type used on highway vehicles or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, or to the sales by a manufacturer, producer, or importer of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus if the requirements of this section are met.

(b) *Meaning of terms—(1) Qualified bus.* “Qualified bus” means an intercity, local, or school bus.

(2) *Intercity or local bus.* “Intercity or local bus” means any automobile bus which is used predominantly (more than 50 percent) in furnishing (for compensation) passenger land transportation available to the general public if such transportation is scheduled and along regular routes, or if the seating capacity of the bus is at least 20 adults (not including the driver). In determining predominant use, mileage travelled with passengers as well as mileage travelled incidental to such passenger transportation, such as “deadheading”, is counted. Under the first alternative, the size of the bus is not relevant for purposes of determining whether or not the use of the bus qualifies for the exemption. Under the second alternative, for non-scheduled bus operations, such as that provided by charter buses, the exemption is available only if the bus has a passenger seating capacity of at least 20 adults and the transportation is available to the general public. For purposes of determining whether the bus has a seating capacity of at least 20 adults, the bus driver is not included. Service is available to the general public if bus

service is used in a passenger transportation business in which service is offered to more than a limited number of persons, groups, or organizations.

(3) *School bus.* “School bus” means any automobile bus in which “substantially all” (85 percent or more) of the use involves transporting students and employees of a school. Incidental use (deadheading) of the school bus without passengers to or from a point to which students or employees of school are transported is considered to be a use which involves transporting students or employees of schools. A school is any educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on. Tax-exempt schools, taxable schools, and a private contractor who operates a bus for tax-exempt or a taxable school may qualify for the tax exemption if all the requirements of this section are met.

(b) *Registration requirements for tires, tubes, and tread rubber; vendees purchasing tax free.* The provisions of section 4221(e)(5) do not apply with respect to any sale unless the manufacturer and the vendee are registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. See § 48.4222 (a)-1. Persons not required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)-1. A person's registration and right to sell or purchase articles tax free may be revoked or suspended as provided in § 48.4222(c).1. Such a revocation or suspension shall be in addition to any other penalties that may apply.

(c) *Cross reference.* For credit or refund, see section 6416(b)(2).

(d) *Information; records—(1) Information to be furnished to purchaser.* A manufacturer selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall indicate to the purchaser that the purchaser is obtaining the tires or tubes tax free for the purpose of use on or in connection with a qualified bus, and that the purchaser is obtaining the